SOUTH CAROLINA
FEDERAL
CREDIT UNION

April 24, 2015

Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: Comment to the Proposed Risk-Based Capital Regulation

Dear Mr. Poliquin:

Thank you for the opportunity to comment on this proposed regulation. We feel the NCUA should withdraw the proposal as it has not demonstrated the need for this rule. The financial health of the credit union system demonstrates this proposal is not justified.

South Carolina Federal Credit Union (SC Federal) is a community-chartered credit union with 17 branches throughout Charleston, Georgetown, and Columbia. South Carolina Federal has experienced phenomenal growth from its beginnings in 1936 when just 14 Charleston Navy Yard employees contributed five dollars each to form the credit union with just $70 in assets. Now, more than 150,000 members own and belong to the nonprofit financial cooperative, which has more than $1.3 billion in assets.

South Carolina Financial Solutions, LLC (SCFS), a wholly owned subsidiary, was created to nourish and support our belief that credit unions must collaborate to survive. SCFS offers a variety of solutions from Insurance offered directly to SC Federal members to Benefits, Talent Management, and Indirect Lending offered to our credit union clients. Our CUSO provides necessary services to our members and other credit unions.

Specific Issues

The costs associated with the implementation of the rule are shocking given how extremely well-capitalized the credit union industry is today. The proposal is an inappropriate use of credit union resources to address concerns about a few credit union outliers. Given that NCUA's budget is funded exclusively by the credit unions it regulates and insures, we are seriously concerned by how much money this proposal will cost the industry.

From what we understand if finalized, the proposal will impose astronomical costs on the credit union industry. NCUA estimates that this proposal will cost credit unions roughly $5.1 million to read the rulemaking and review it against their current policies. NCUA also projects that it will cost $3.75 million for the agency to adjust the Call Report, update its examination systems and

train internal staff to implement the proposed requirements. If this proposal were to be finalized, NCUA also estimates credit unions would incur an ongoing $1.1 million expense to complete the adjusted Call Report fields.

NAFCU's analysis estimates that credit unions' capital cushions will suffer a $490 million hit if NCUA promulgates a separate risk-based capital threshold for well capitalized and adequately capitalized credit unions (a "two-tier" approach). Specifically, in order to satisfy the proposal's "well-capitalized" thresholds, today's credit unions would need to raise an additional $760 million. On the other hand, to satisfy the proposal's "adequately capitalized" thresholds, today's credit unions would need to raise an additional $270 million. Despite NCUA's assertion that only a limited number of credit unions will be impacted, this proposal would force credit unions to hold hundreds of millions of dollars in additional reserves to achieve the same capital cushion levels that they currently maintain. **These are funds that could otherwise be used to make loans to consumers or small businesses and aid in our nation's economic recovery.**

NCUA lacks the statutory authority to prescribe a separate risk-based capital threshold for "well capitalized" and "adequately capitalized" credit unions. The *Federal Credit Union Act* (FCU Act) expressly provides that NCUA shall implement a risk-based net worth requirement that "take[s] account of any material risk against which the net worth ratio required for an insured credit union to be *adequately capitalized* may not provide adequate protection." 12 U.S.C. § 1790d(d). The FCU Act does not provide NCUA the express authority to implement a separate risk-based net worth threshold for the "well capitalized" net worth category.

NCUA's attempts to "back-door" an individual minimum capital requirements "IMCR" or substantially similar standard during the examination process may run the risk of violating the agency's statutory authority. While the FCU Act establishes a risk-based net worth requirement for complex credit unions, it does not grant NCUA the authority to impose IMCR. 12 U.S.C. § 1790d(d). Congress authorized specific circumstances that a credit union could be "reclassif[ied]" and subjected to more stringent capital standards, but did not legislate a provision allowing NCUA to prescribe IMCRs for particular credit unions. 12 U.S.C. § 1790d(h). Together with the lack of any express authority, these provisions of the FCU Act suggest that Congress never intended for NCUA to have the power to proscribe IMCRs, either through the rulemaking or examination process.

The definition of "complex" should actually consider a credit union's portfolios of assets and liabilities, rather than an arbitrary asset threshold. Credit unions are distinctly different from one another with regard to the products and services they offer and their level of complexity.

While NCUA lowered the risk-weight for investments in CUSOs, the proposed 150 percent risk weight still fails to consider the different types of services provided by a given CUSO. For example, an investment in a CUSO engaged in low-risk activities like providing compliance assistance would be assigned the same risk-weight as an investment in a CUSO engaged in mortgage or commercial loan underwriting. Despite being lowered, the proposed 150 percent risk-weight could still be improved to assess a more meaningful risk distinction between the risks various types of CUSOs pose. Instead, CUSO investment should be weighted at 100 percent to

better align it with loans to a CUSO and more accurately reflect the risk involved with investing in a CUSO.

The proposal to set the risk-weight for Mortgage Servicing Assets at 250 percent is punitive and indicates NCUA's preference for less loan participations. The loan participation rule is working and should be allowed to continue working instead of higher risk-weights for mortgage servicing assets. In the final rule, NCUA should consider whether the loan is a recourse loan and assign those a higher risk-weight. NCUA could then allow an even lower weighting of 100 percent if the loans are sold without recourse but are serviced.

The proposed risk-weight for paid-in corporate capital does not reflect the actual risk of this asset. This could serve as a disincentive to credit unions to invest in corporate credit unions. Paid-in capital would be more appropriately weighted at 125 percent to recognize that the corporate credit union structure is different than it once was, and now presents less risk to the credit union system. 125 percent also recognizes that the paid-in capital corporate is more risky than safer investments such as treasuries or consumer loans, but less risky than delinquent loans.

Removing Goodwill will negatively affect credit unions that have had recent mergers by failing to allow them to fully realize the previously accounted for benefit. It will present a disincentive for healthy credit unions to become merger partners for troubling or failing credit unions because of the possible significant negative effect to their risk-based net-worth ratio. Goodwill should be added back into the numerator for the risk-based capital ratio.

NCUA's existing supervisory and examination mechanisms provide the agency the appropriate ability to control IRR at individual credit unions. If NCUA were to declare a rulemaking on IRR, the agency would hold credit unions to significantly different standard than banks. To better control for interest rate risk, NCUA should continue to apply industry-accepted methods as part of a competent supervision and examination process. NCUA already has a number of requirements and guidance regarding interest rate risk that credit unions must comply with, such as the interest-rate risk final rule, a letter to credit unions on the subject (12-CU-05), and it is the top subject in the most recent NCUA supervisory focus (15-CU-01).

We appreciate the opportunity to comment on this proposed regulation.

Sincerely,

Bonnie K. Ciuffo, CPA, CIA
President
South Carolina Financial Solutions, LLC.

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